

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JUAN DAVILA-BAJANA,)	Civil Action No. 04-253E
)	
Plaintiff,)	Hon. Sean J. McLaughlin
)	United States District Judge
v.)	
)	Hon. Susan Paradise Baxter
TIM HOLOHAN, <u>et al.</u> ,)	Chief United States Magistrate Judge
)	
Defendants.)	ELECTRONICALLY FILED

**DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT
OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT**

AND NOW come Federal Defendants, by their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Paul D. Kovac, Assistant United States Attorney for said district, and, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, respectfully move the Court for an Order dismissing the remainder of Plaintiff's Complaint for failure to state a claim upon which relief can be granted. Alternatively, Defendants request summary judgment in their favor.

A Memorandum of Law in support of this Motion and various declarations from Federal Defendants are being filed simultaneously herewith, and their contents are incorporated by reference herein.

WHEREFORE, Defendants, respectfully request that the Court enter an Order granting Defendants' Motion to Dismiss the Complaint or, in the alternative, granting summary judgment in favor of Defendants and granting such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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s/Paul D. Kovac
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Dated: December 7, 2006

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 2006, a true and correct copy of Defendant's Motion to Dismiss Plaintiff's Complaint or, in the Alternative, for Summary Judgment was electronically filed and/or served by postage-paid U.S. Mail, to and upon the following:

Mr. Juan Davila-Bajana
Plaintiff Pro Se
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s/Paul D. Kovac
PAUL D. KOVAC
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